

**NOTICE TO ALL PERSONS WHO DID NOT APPLY TO BECOME 21<sup>st</sup> CENTURY SCHOLARS OR TO RECEIVE THE 21<sup>st</sup> CENTURY SCHOLARS GRANT BECAUSE YOU WERE INFORMED THAT IN ORDER TO BE ELIGIBLE YOUR PARENTS OR GUARDIANS HAD TO BE CITIZENS OR LEGAL ALIENS**

My name is Kenneth Falk. I am an attorney in Indianapolis and I represent the plaintiffs in a lawsuit entitled *E.C. v. Obergfell* (No. 1:06-cv-359, U.S.Dist.Ct. Indianapolis). In this case the plaintiffs claim that the State Student Assistance Commission of Indiana that administers the 21<sup>st</sup> Century Scholars program violated the United States Constitution by informing students who wished to apply that their parents or guardians had to be United States citizens or legal aliens and that they had to have Social Security Numbers. This case is a class action, meaning that I represent not only the persons who filed the case but all persons in the class which is defined as:

all past, present, and future Indiana students, either citizens or lawful aliens, who were, are, or will be eligible to apply to become a Twenty-first Century Scholar and/or receive a Twenty-first Century Scholar award and who were found ineligible or will be found ineligible, or who did not apply or will not apply, to become a Scholar and/or receive an award because their parents or legal guardians were not, are not, or will not be American citizens or lawful aliens .

We have now reached a potential settlement of the case. Because the case is a class action, before the Court will approve the settlement notice to the class must be given and class members must be given an opportunity to comment on the settlement. I therefore want to summarize the settlement for you and then tell you how you can make comments about it.

Under the settlement:

- The State Student Assistance Commission agrees that it will not use any policy, practice, or procedure that requires the parents or legal guardians of applicants for the 21<sup>st</sup> Century Scholars Program, including scholarships under the program, to be American citizens or legal aliens and no State Student Assistance Commission materials will indicate that there is such a policy, practice or procedure
- The State Student Assistance Commission may ask applicants to disclose their parents or guardians' Social Security Numbers or Individual Taxpayer Identification numbers if they do not have a Social Security Number. However, failure of the parent or legal guardian to have either number will not make the student ineligible.
- In reviewing its records, the State Student Assistance Commission has not found anyone denied because their parents were not citizens or lawful aliens. However, there were 73 applications that were returned because a Social Security Number was not listed for a parent or legal guardian. The State Student Assistance Commission will send these persons a Special Enrollment Application Form with a notice that they may file the new application by March 10, 2007 disclosing their parents or guardians' Social Security Number or Individual Taxpayer Identification Number or disclosing that their parents or guardians have neither. The student who timely files Special Enrollment Application

Form will be found to be eligible to be 21<sup>st</sup> Century Scholar and receive an award if all other eligibility requirements are met.

- All persons who were 21<sup>st</sup> Century Scholars but did not sign the Affirmation Form in their senior year of high school because they were informed that their parents or legal guardians had to be United States citizens or lawful aliens, and whose parents or legal guardians were not United States citizens or legal aliens at the time, will be allowed to fill out a Special Affirmation Form provided that they were 20 years of age or younger on the day we filed the case, March 2, 2006. If the Special Affirmation Form is timely submitted and the applicant is otherwise eligible then he or she will be awarded a grant on the same terms as if the grant had been awarded in the applicant's senior year of high school. However, if the applicant is already in post-high school education the grant will not reimburse the applicant for tuition or expenses already paid, but will pay for future eligible costs.
- All persons who did not apply to become 21<sup>st</sup> Century Scholars in their 7<sup>th</sup> or 8<sup>th</sup> grades because they were informed that their parents or legal guardians had to be United States citizens or legal aliens and/or had to have Social Security Numbers will be given the opportunity to apply to become 21<sup>st</sup> Century scholars:
  - if they were 20 years or younger on March 2, 2006
  - if they affirm that the reason they did not apply in their 7<sup>th</sup> or 8<sup>th</sup> grade years was that they had been informed that their parents or legal guardians had to be United States citizens or legal aliens and/or had to have Social Security Numbers and at that time their parents or legal guardians were not United States citizens or legal aliens.

If these criteria are met and the persons timely apply the State Student Assistance Commission will determine if they were otherwise eligible in their 7<sup>th</sup> or 8<sup>th</sup> grade years, but for the failure to apply at that time. If otherwise eligible they will be found to be 21<sup>st</sup> Century Scholars. If they have already graduated from high school they will be awarded a grant, if otherwise eligible. However, the grant will not reimburse the applicant for tuition or expense already paid.

- Once the settlement is approved, notices concerning its terms will be sent various places, including to all Indiana middle and high schools and post secondary schools that are approved for 21<sup>st</sup> Century Scholar grants. The schools will also receive the appropriate forms so that students can apply. Forms can also be obtained from the State Student Assistance Commission.
- The settlement also provides that one of the students filing the case, who has now graduated from high school, has been approved for a 21<sup>st</sup> Century Scholars grant. The other two persons who filed the case are in high school and can apply to become 21<sup>st</sup> Century scholars pursuant to the terms outlined above. It also provides that for one year I will receive a summary every three months of persons who have applied to become 21<sup>st</sup>

Century Scholars or to receive grants under this settlement. Finally, the settlement provides that the State Student Assistance Commission will be paying my attorney's fees and costs. As of yet this amount is not determined. I do not charge my clients fees.

The settlement provides that after the posting of this Notice for at least 45 days on the State Student Assistance Commissions website I am to file a report with the Court as to any comments from the class about the settlement. Therefore, if you wish to comment you should send your comments to me. My name and address are set out below. If you would like me to disclose your name and letter to the Court, please put on the bottom of your letter: "I AUTHORIZE YOU TO GIVE THIS LETTER TO THE JUDGE." You do not have to put this on your comments. If you don't I will just summarize your comments for the Judge, but I will not disclose your name. You may also call or e-mail me with your comments if you wish.

Once I receive all your comments I will summarize them for the Judge who will then decide whether or not to approve the settlement. Thank you for your interest.

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